THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6003 of 2006

04.4.2006

Between:

Mohd. Merajuddin, S/o.Mohd. Mohiuddin
And others

… Petitioners

AND

The District Collector, Ranga Reddy District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6003 of 2006

ORDER:

The petitioners, who are sixty two (62) in number, filed the instant writ petition seeking a writ of Mandamus declaring the action of the respondents in trying to take forcible possession and interfering with the enjoyment of the petitioners in respect of various house sites comprised in survey Nos.283/13, 17, 20, 21, 40, 53 and 54 of Abdullapur Village of Hayathnagar Mandal in Ranga Reddy District as illegal, arbitrary and unconstitutional, and for a consequential direction to the respondents, namely, the District Collector, Ranga Reddy, the Revenue Divisional Officer (RDO) and the Mandal Revenue Officer (MRO), Hayathnagar, not to disturb the peaceful possession and enjoyment of the petitioners' plots. The matter was initially listed before this Court on 28.3.2006. At the request of learned Assistant Government Pleader for Revenue (General), the matter was adjourned on that day and on another day to enable the learned Assistant Government Pleader to file counter affidavit. Today, the counter affidavit is filed and the matter is heard finally, and is being disposed of at the stage of admission.

The case of the petitioners is that all of them purchased the house sites admeasuring 100 Sq.yards each comprised in survey Nos.154/B, 154/A, 75 to 82 etc., from original pattadars under registered sale deeds executed and registered at the office of Sub-Registrar, Amberpet, in 2001. They also alleged that the original

pattadars developed the agricultural land into house plots and sold the property. At the time of sale, the owners allegedly produced the proceedings No.B1/1568/93, dated 20.7.1993 issued by the RDO, Hyderabad East Division, to the effect that the lands are not government lands and that they are not assigned lands. It is alleged that in January 2006, the MRO along with his staff came to the plots and threatened to evict the petitioners. The petitioners approached the third respondent and produced the copies of registered sale deeds as well as the proceedings dated 20.7.1993 of the RDO, Hyderabad East informing that they are bona fide purchasers. In spite of the same, on13.3.2006 and on 17.3.2006, the staff of the third respondent came to the plots and made attempts to evict the petitioners stating that the land has to be assigned to other persons. Therefore, the present writ petition is filed.

In the counter affidavit filed by the third respondent the allegation that the third respondent tried to forcibly evict the petitioners is denied. It is further stated that the land in survey No.283/13, 17 etc., is classified as “Kancha Sarkari”. The land in survey No.283 admeasuring Acs.158.00 was assigned to 93 villagers who belong to Scheduled caste and Backward Classes for carrying out agriculture, and an extent of Acs.16.27 guntas in survey No.283/13, 17 etc., was assigned to seven persons including the petitioners herein, without obtaining permission from Hyderabad Urban Development Authority (HUDA). As the sale is prohibited under A.P. Assigned Lands (Prohibition of Transfer) Act, 1977 (the Act, for brevity), action was initiated under the provisions of the Act and notice was issued to the assignees. Some of the assignees received noticed and notices could not be served on the others. Therefore, the notice was affixed in the office of the Gram Panchayat. The orders were passed by the MRO for resumption of the land in March, April and August 2005 and the possession was taken under the cover of Panchanama dated 28.10.2005 and 25.2.2006. The MRO asserts that the land is in possession of the Government and the same is placed at the disposal of A.P. Housing Board for construction of houses under Rajiv Gruha Kalpa Scheme. The allegation that the petitioners are in possession of the land is denied.

Learned Counsel for the petitioners submits that the petitioners made necessary enquiries before purchasing the house sites from the pattadars and being bona fide purchasers, without notice, they cannot

be evicted from the plots. According to the learned Counsel, Section 3(1) of the Act has no application when the land was sold by the assignee based on the certificate issued by the revenue authorities that it is not a Government land.

The writ petition is filed on an allegation that there is a threat of dispossession and that the third respondent made attempts, once in January 2006 and twice in March 2006, to forcibly evict the petitioners. The same allegation is denied and, therefore, it is reasonable to draw an inference that the writ petition is filed on mere apprehension and that the petitioners are fully aware of the proceedings taken up by the third respondent under the provisions of the Act. Under Section 3(1) of the Act, the transfer of assigned land by way of sale, gift, mortgage etc., is absolutely prohibited and it shall be deemed that assigned land never has been transferred and accordingly, no right or title in such assigned land shall vest in acquiring the land by transfer. The petitioners purchased assigned land and, therefore, they do not have vested right in the property. The MRO followed the due process of law under the provisions of the Act and A.P. Assigned Land (Prohibition of Transfer) Rules, 1977, and already resumed the land. A perusal of various documents annexed to the counter affidavit would show that proper procedure was followed before possession is taken.

The writ petition, for the above reasons, is misconceived and is, accordingly, dismissed. No costs.

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(**V.V.S.RAO,J**)

April 04, 2006.

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